



**CONTRA COSTA
WATER DISTRICT**

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May 14, 1997

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**Mr. Kurt Ladensack
East Bay Municipal Utility District
P.O. Box 24055, MS 305
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Subject: CCWD Comments on Revised NOP/NOI for EBMUD's Supplemental Water Supply Project Joint EIR/EIS

Dear Mr. Ladensack:

This letter contains Contra Costa Water District's ("CCWD" or "District") comments on the Revised Notice of Preparation and Notice of Intent ("Revised NOP/NOI") for the East Bay Municipal Utility Water District's ("EBMUD") Supplemental Water Supply Project Joint Environmental Impact Report/Environmental Impact Statement (dated April 10, 1997). CCWD has previously submitted comments related to EBMUD's American River Project and the Folsom South Canal Connection ("FSCC") Project (Letter from Richard Denton to Maria Morrison dated February 29, 1996; Letter from Gregory Gartrell to Maria Solis dated April 3, 1997). This letter provides comments on the Revised NOP/NOI as it was described at the public meeting in Oakland on April 29, 1997, and reiterates many of CCWD's previous concerns.

INSUFFICIENT RANGE OF ALTERNATIVES

Besides the no-action alternative, the EIR/EIS proposes to evaluate only two additional alternatives: a joint project with the City of Sacramento and the County of Sacramento to divert American River water near Interstate 5; and an EBMUD-only project to divert American River water at Nimbus. There are a number of other viable options for obtaining an additional water supply, including diverting water from the Delta, conjunctive use of American River water with EBMUD's Mokelumne supply, or raising Pardee Dam. In 1993, EBMUD completed and adopted a programmatic environmental impact report for its Water Supply Management Program ("WSMP"). The WSMP included many alternatives for obtaining additional water supplies, but neither of the alternatives in the Revised NOP/NOI were included in the WSMP. Any discounting of alternatives analyzed in the WSMP would be inappropriate, because none of those alternatives were compared against the ones currently proposed to be analyzed. One of the goals of CEQA is to evaluate a full range of alternatives and determine those that are the most effective and have the least environmental impact. The District requests that other alternatives also be considered in this environmental review process. Such alternatives might include conjunctive use of American River water with the Mokelumne supply and diversion of water from the Delta water, which may have less environmental impacts than the alternatives currently under consideration.

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REVISED NOP/NOI STUDY AREA INSUFFICIENT

The Revised NOP/NOI appears to include only two regions for its study area: the lower American River and the FSCC areas. However, the American River is tributary to the Sacramento River and the Sacramento-San Joaquin Delta. The Bureau of Reclamation ("Bureau") operates Folsom reservoir on the American River for two primary purposes: to satisfy the fishery and water supply needs of the lower American River and to complement Lake Shasta in providing environmental water needs, water quality benefits, and water supply needs of the Delta. Any increased diversions from the American River, especially in drier years, when EBMUD needs the water the most, would hinder the Bureau's ability to meet its Delta obligations. As the Bureau's representative noted at the April 29, 1997 public meeting in Oakland, the Bureau uses Folsom reservoir to help meet the mandated water quality standards of the Delta. Folsom reservoir also supplies water to other CVP contractors in the Delta and south of the Delta. For example, diverted American River flows reduces Delta inflow, reducing the amount of water that can be exported by the State Water Project and the CVP. Because increased diversions on the American River will impact the amount of environmental water available, the water quality conditions, and the export supplies available from the Delta, the study area for the joint EIR/EIS needs to include the impacts to the Delta and the entire Bay-Delta watershed.

REVISED NOP/NOI IS INCONSISTENT WITH CALFED

The CALFED Bay-Delta Process is nearing the completion of a draft EIR/EIS for a long-term solution to many of the Delta's problems. The United States Bureau of Reclamation, the lead federal agency for the joint EIR/EIS, is a member of CALFED and EBMUD is also an active participant in the CALFED stakeholder process. The goals of CALFED are to improve the Bay-Delta environment, improve water quality, provide an adequate water supply, and improve system reliability. CALFED is analyzing three types of alternatives: the current Delta configuration with environmental restoration, a through-Delta configuration, and a through-Delta with an isolated conveyance facility. CALFED is also analyzing storage options for each of the alternatives.

The Revised NOP/NOI is incompatible with the CALFED Process and the CALFED alternatives currently under discussion. In particular, EBMUD would develop its own isolated facility to divert water around the Delta and remove water that would otherwise be available to CALFED for flows in the Delta for fishery purposes, meeting water quality standards, and eventual diversion opportunities. EBMUD needs to work together with the other CALFED stakeholders to find a consensus-based Bay-Delta solution which will meet the needs of all stakeholders. Indeed, it is likely that the CALFED solution will include viable options that are more cost effective for EBMUD.

The District requests that completion of the joint EIR/EIS for the proposed American River and FSCC project be delayed until such time as CALFED has determined its preferred alternative.

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REVISED NOP/NOP NEEDS TO ADDRESS DELTA PROTECTION ACT

Exports of CVP water from the Bay-Delta watershed are also governed by the Delta Protection Act (California Water Code Sections 12200 *et seq.*). For example, section 12202 mandates that:

Among the functions to be provided by the State Water Resources Development System, in coordination with the activities of the United States in providing salinity control for the Delta through operations of the Federal Central Valley Project, shall be the provision of salinity control and an adequate water supply for the users of water in the Sacramento-San Joaquin Delta.

Section 12204 adds that:

In determining the availability of water for export from the Sacramento-San Joaquin Delta no water shall be exported which is necessary to meet the requirements of Sections 12202 and 12203 of this chapter.

Because the alternatives in the Revised NOP/NOI would divert American River water around the Delta, the impacts the proposed export of water from the Delta needs to be analyzed. For example, CVP water diverted by EBMUD at Nimbus or near the confluence with the Sacramento River at Highway 5 for use in its service area would be an export of CVP water from the Delta under the Delta Protection Act. To the extent that it denies salinity control and an adequate water supply for Delta users, including CCWD, it would violate the provision of the Delta Protection Act, and state water law. The joint EIR/EIS must demonstrate that CCWD will be assured continued salinity control and an adequate supply with this project.

REVISED NOP/NOI DOES NOT ADDRESS REASONS FOR CHANGE IN PROJECT

The Revised NOP/NOI does not address in detail the reasons for the choice of this project configuration nor does it list any criteria as to why other previously preferred alternatives were later rejected. Some of the previous alternatives that were developed may now be feasible. For example, a Delta alternative may not be acceptable with today's Delta configuration, but with a new CALFED Bay-Delta solution, which is reasonably foreseeable, such an alternative might prove most effective. A background description of previous NOP/NOIs and the reasons for the numerous changes in project description since 1993 need to be discussed in detail in the joint EIR/EIS.

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REVISED NOP/NOI MAY BE INCONSISTENT WITH CURRENT BAY-DELTA PROGRAMS

There are many ongoing environmental documents being developed regarding recent actions involving the Delta. The State Water Resources Control Board is evaluating alternatives to implement the 1995 Water Quality Control Plan, which made significant changes to the way the Delta and upstream rivers are operated. The Bureau, under the requirements of the Central Valley Project Improvement Act, is close to completing its programmatic EIS for the CVPIA. This EIS will analyze the impacts of the CVPIA, including flow related action on the American River and the Delta. CALFED is working diligently on completing its draft EIR/EIS, which also includes flow related actions on the American River and in the Delta.

The joint EIR/EIS needs to assess the proposed American River water projects in terms of how it might affect these other important processes, which have been receiving stakeholder input from water users across the State.

TRANSFER OF CVP WATER

The Revised NOP/NOI includes an alternative that calls for the transfer of some of EBMUD's CVP contract water to other parties, including the East San Joaquin parties and the City and County of Sacramento. This proposal raises questions regarding the right of first refusal of other CVP contractors for the transferred water (as outlined, for example, in section 3405(a)(1)(F) of the CVPIA. The joint EIR/EIS needs to analyze whether these transfers will have any adverse effects on other CVP contractors, or other Bay-Delta water users. The joint EIR/EIS must also include as alternatives the possibility that other CVP contractors will exercise their rights.

TREATMENT OF EBMUD WATER AT FAIRBAIRN

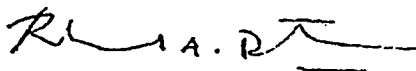
The Revised NOP/NOI includes an alternative in which American River water that has been diverted near the confluence with the Sacramento River would be treated to drinking water quality levels at the Fairbairn Water Treatment Plant prior to being discharged into the Folsom South Canal. The water would then commingle with raw water and then have to be re-treated in the EBMUD service area. Having to treat this water twice before it reaches EBMUD customers appears to be an unnecessary expense (EBMUD's share of the cost of expanding the Fairbairn Water Treatment Plant is estimated to be almost \$40 million). This would also add additional chemicals and may produce byproducts that have an unnecessary health risk. Other alternatives, such as a Delta water supply project, may prove to provide better water quality to the EBMUD service area than the Joint Project alternative of the Revised NOP/NOI, particularly when properly evaluated. In making these evaluations, the joint EIR/EIS needs to consider blending as well as take into account the water quality in EBMUD reservoirs which receive local drainage and urban runoff.

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The joint EIR/EIS needs to consider an alternative to upgrade the water treatment facilities within the EBMUD service area that would not require water treatment at Fairbairn and allow EBMUD the flexibility to treat water diverted from the Delta at Bixler, either during emergency conditions or as part of a reconfigured American River Project.

Contra Costa Water District appreciates the opportunity to provide comments on the April 10, 1997 Revised NOP/NOI for this Project. If you have any questions regarding these comments, please contact me at (510) 688-8187.

Sincerely,



Richard A. Denton
Water Resources Manager

cc: Roger Patterson, Regional Director, USBR

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